
HOUSE BILL No. 1494

DIGEST OF INTRODUCED BILL

Citations Affected: IC 34-10-1-2.

Synopsis: Attorneys for the indigent in civil cases. Provides that a court that accepts the application of a litigant for leave to prosecute or defend a civil action as an indigent person is not required to, but may, under exceptional circumstances, assign an attorney to defend or prosecute the action on the litigant's behalf. Authorizes the court, in deciding whether to assign an attorney to defend or prosecute on the litigant's behalf, to consider: (1) the likelihood that the litigant will prevail on the merits of the litigant's claim or defense; and (2) the litigant's ability to investigate and present the litigant's claims or defenses without an attorney, given the type and the complexity of the facts and legal issues in the action. Prohibits the court from assigning an attorney to defend or prosecute on the litigant's behalf if the court determines that: (1) the litigant failed to make a diligent effort to obtain an attorney before filing an application; or (2) the litigant is unlikely to prevail on the litigant's claim or defense.

Effective: Upon passage.

Ruppel, Ayres

January 11, 2001, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

HOUSE BILL No. 1494

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 34-10-1-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a) This section**
3 **shall not be construed to prohibit a court from participating in a**
4 **pro bono legal services program or any other program that**
5 **provides legal services to litigants without charge or at a reduced**
6 **fee.**

7 **(b)** If the court is satisfied that a person who makes an application
8 described in section 1 of this chapter does not have sufficient means to
9 prosecute or defend the action, the court: ~~shall:~~

10 (1) **shall** admit the ~~applicant~~ **person** to prosecute or defend as an
11 indigent person; and

12 (2) **may, under exceptional circumstances,** assign an attorney
13 to defend or prosecute the cause.

14 **(c) The factors that a court may consider under subsection**
15 **(b)(2) include the following:**

16 (1) **The likelihood that the person will prevail on the merits of**
17 **the applicant's claim or defense.**



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1 **(2) The person's ability to investigate and present the person's**
2 **claims or defenses without an attorney, given the type and the**
3 **complexity of the facts and legal issues in the action.**

4 **(d) The court may not, under subsection (b)(2), assign an**
5 **attorney to defend or prosecute an action on behalf of a person**
6 **who made an application under section 1 of this chapter if the**
7 **court determines either of the following:**

8 **(1) The person failed to make a diligent effort to obtain an**
9 **attorney before filing the application.**

10 **(2) The person is unlikely to prevail on the person's claim or**
11 **defense.**

12 **(e) All officers required to prosecute or defend the action shall do**
13 **their duty in the case without taking any fee or reward from the**
14 **indigent person.**

15 **SECTION 2. An emergency is declared for this act.**

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